APPENDIX.

I THE FOLLOWING ARE EXCERPTS FROM THE MINUTES OF THE EXECUTIVE SESSION OF THE DEFENDANT COMMISSION.

The following are excerpts from the minutes of the Executive Session of the defendant commission held on September 26, 1956.

Mr. Bryan noted that at the public hearing on September 19, 1956, a folder was presented to each member of the Commission containing the agenda of that meeting, copies of the legal advertisements published in the newspaper, tables and maps presenting a study of retail sales of Fairfield County towns and the Bridgeport area and a revised census of walk-in retail business establishments in Fairfield dated September 19, 1956. Mr. Bryan noted that the retail sales study and the census of retail businesses supplement Report #11, **Outline for a Business Land Use Plan.** Mr. Bryan noted that each member of the Commission tonight was presented with a list of exhibits pertaining to these Black Rock Turnpike business proposals and that each of these exhibits are either on display in the room or is available in the room.

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Mr. Bryan then displayed the mounted map prepared by Technical Planning Associates in 1948 and showing the distribution of existing dwelling units. The Commission members noted the contrast between the dwelling units in the northeast portion of

Town in 1948 **and the dwelling units shown on the new dot map on display.**

The Commission then reviewed the findings of Report #7 **Population and Residential Growth,** Report #9 **Outline for Industrial Land Use Plan,** Report #11 **Outline for Business Land Use Plan** and Report #12 **Fairfield Growth.** The Commission then studied the United States Geological Survey map of the Bridgeport Metropolitan Area, and Mr. Bryan noted the major highways in and around Fairfield and the major business areas affecting the Town of Fairfield.

Mr. Bryan then displayed and explained for the Commission the 200 scale land use maps of the Black Rock Turnpike area, the 200 scale topographic map of the area under consideration tonight and the general plan for the development of business areas on Black Rock Turnpike as considered by the Commission at an informal meeting on February 2, 1955.

Mr. Bryan then explained a population study **which he and Mr. Lee prepared.** He called the Commission's attention to the map outlining in red the minimum area which would be served by shopping facilities on Black Rock Turnpike. The map with its acetate overlay shows the distribution of dwelling units in the area outlined in red. Mr. Bryan said that in this area, outlined in red, are 3,268 dwelling units with an estimated population of 10,784, at 3.3 persons per dwelling unit. This outlined area, he said, has a potential development of 4,091 dwelling units and a total population of 13,500 persons. Mr. Bryan then displayed a small map of the Town,

showing a much larger area in the northeast part of Fairfield which might be served by substantial shopping facilities in the Black Rock Turnpike area. This map showed eleven districts lettered from "A" through "K," and he noted that the existing dwelling units in these districts total 5,194 with an estimated population of 17,140. These areas, he said, when fully developed under existing zoning, can contain 9,593 houses and a total population of about 32,000.

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Mr. Bryan and Mr. Lee then discussed with the Commission three alternate plans for the development of a community shopping center on Black Rock Turnpike. As the first alternate, Mr. Lee explained that it is possible to establish such a community shopping center on the land now zoned for retail business use. He presented a sketch of a building housing a group of stores the size of the Grand Union block in Fairfield Center, and noted that this building could be built on the existing 200 feet of depth on the southwest side of Black Rock Turnpike. He noted that the plan included a parking ratio of three to one, sufficient space for landscaping and all parking facilities within 300 feet of the building. Such a plan, he said, however, provides no space for expansion, and is dependent upon the difficult assembly of properties which are now in separate ownerships. Similar blocks could be built on the northeast side of Black Rock Turnpike and on Black Rock Turnpike north of Stillson Road. The development of these additional blocks in this manner, he said, would not lead to the unified type of shopping development thought desirable today.

Mr. Lee described the second alternative as being the adoption of the proposals under consideration tonight and perhaps the ultimate contraction of the business zoning as proposed in the general plan considered in 1955.

As a third alternative, Mr. Lee suggested that the concentration of area for retail business development could be achieved by relocating Black Rock Turnpike to the southwest, near Stillson Place or to the northeast, near Barry Scott Drive. He presented two sketches of the relocation possibilities. He noted that the possibility of relocating Black Rock Turnpike is fairly remote.

Mr. Bryan explained that these three alternatives are intended to show possible choices for the development of a Community shopping center. The third alternative, he said, seems most remote. He said that the first alternate is not likely to result in the unified development of shopping buildings due to the minimum depth of the commercial zones and the great diversity of property ownerships. In the long run, he said, this first alternate will still result in the lack of concentration of shopping facilities and what amounts to a string of businesses along Black Rock Turnpike.

The following items were presented for the first time at the executive session:

Exhibit 26—Report #7 on population.

Exhibit 27—Report #9 on industry.

Exhibit 30—Town map of commercial zones and institutional land.

Exhibit 31—U. S. G. S. map of metropolitan area.

Exhibit 33—Map of areas in existing and potential development study.

Exhibit 36—Study of business land areas on Black Rock Turnpike.

Exhibit 38—Mounted master plan map of dwelling unit distribution.

Exhibit 41—Three rough sketches of possible relocations of Black Rock Turnpike.

Exhibit 42—Sketch of development possible on existing 200 foot depth.

Exhibit 43—Table of areas of Fairfield zones.

II THE FOLLOWING ARE EXCERPTS FROM THE HEARING OF THE APPEAL BEFORE HON. SIDNEY A. JOHNSON, JUDGE, IN THE COURT OF COMMON PLEAS, FAIRFIELD COUNTY, ON FEBRUARY 14, 1957.

EXCERPTS OF HEARING.

Appearances:

For the Plaintiffs:

Cohen, Schine & Wolf, by Attorney Austin Wolf.

For the Defendants:

Marsh, Day & Calhoun for Town Plan and Zoning Commission, by Attorney Raymond C. Beckwith.

Friedman & Friedman for Turnpike Associates, by Attorney Arthur Levy.

(Mr. Beckwith, after introducing 25 defendant Town Plan and Zoning Commission Exhibits, attempts to introduce the following, to which there is objection by Mr. Wolf:)

Mr. Beckwith: The next item is the so-called Report Number 7 on population and residential growth, prepared by the Planning Department.

Mr. Wolf: Was that in evidence before the hearing?

Mr. Beckwith: This was before the Commission.

Mr. Wolf: Was it at the public hearing?

Mr. Beckwith: No, I don't believe at the public hearing, but at the executive session.

Mr. Wolf: If Your Honor please, I think that an item not considered at the public hearing, but only at the executive session should be stricken from the record.

Mr. Beckwith: This is an item which the Commission had before it or had access to.

The Court: At the public hearing?

Mr. Wolf: This was not at the public hearing.

Mr. Beckwith: This is a Fairfield Population and Residential Growth report which was prepared some time ago by the Planning office. It is available to the Commission for its guidance in surveying various zoning problems and it was specifically considered by them, though not at the public hearing. It is very similar to Item 10 here.

Mr. Wolf: That was submitted at the specific request of counsel for the opposition, this report was not; we didn't even see this.

The Court: I suppose you could say that is within their knowledge.

Mr. Beckwith: It is part of their knowledge and part of their file.

The Court: But that doesn't say why it wasn't before these people at the hearing.

Mr. Beckwith: I think that is—these people didn't know it existed.

Mr. Wolf: If Your Honor please, I don't think it forms any part of the record; it wasn't in evidence at the public hearing.

Mr. Beckwith: Then, if Your Honor please, if we are going to be bound by evidence that was submitted at the public hearing, there are many things which—

Mr. Wolf: If this sort of thing is to be allowed as evidence, there is no point in having a hearing. They might as well have an executive session and be done with it.

The Court: At this particular point, are there any other things in this return that were at the public hearing and available to these people?

Mr. Beckwith: I will have to check that, Your Honor. If Your Honor please, I am informed that Item 32 was on display at the public hearing and that Item 37 was on display at the public hearing. Item 44 is of course the minutes of the public hearings and that is outside the present inquiry. Items 30 and 31, for example, were in the room at the hearing, on the Commissions' table, but were not publicly displayed.

The Court: I am only concerned with the things that have not been reported.

Mr. Beckwith: Reports 7, 9 and 12, Items 26, 27 and 28 are reports which have been generally promulgated to the public. The first one I take up was an exhibit in four previous zoning cases. The reports are something that the Commission members have read and have access to. I feel that all of this material that bears on the problem is relative to the appeal. It is all material that is prepared at the direction of the Commission to solve zoning questions, to provide for future planning of the town.

The Court: You miss my point. I want a differentia of those items that were there specifically at the public hearing and those that were not; so long as they were in the room and available to the Commission or anybody that comes in, without any qualification. But I think on the other things, in fairness to the citizens who are appealing this case, the record should show that that was not available to them at the hearing.

Mr. Beckwith: Item 26 was not in the room; Item 27 was not in the room.

The Court: Not at the public hearing?

Mr. Beckwith: No. Item 28 was in the room at the public hearing.

Mr. Wolf: Will the Court rule on the two Items 26 and 27?

The Court: Item 26 is a report on the population and was not present at the public hearing?

Mr. Beckwith: That is correct.

The Court: But it was used by the Zoning Commission in executive session?

Mr. Beckwith: That is correct, Your Honor.

The Court: It may be admitted with that qualification.

Mr. Wolf: Objection and exception.

(Exception noted for the plaintiffs.)

Report of Population, marked as Defendant Town Plan and Zoning Commission's Item No. 26 of the file.

Mr. Beckwith: Number 27 is the so-called report Number 9 on Industry. This was not present at the public hearing; it was present and available to the Commission at the executive session.

Mr. Wolf: I make the same objection.

The Court: There is an objection and an overruling of the objection and an exception in all of these items that were not at the public hearing and which were used at the executive session.

Report Number 9 on Industry, marked as Defendant Town Plan and Zoning Commission's No. 27 of the file.

(Objection and exception noted for the plaintiffs.)

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Mr. Beckwith: Item Number 30 is a map of commercial zones and institutional land. This was not present at the public hearing, but was present at the executive session.

Mr. Wolf: May I have the same objection and an exception?

The Court: I made that notation.

(Objection and exception noted for the plaintiffs.)

Map of Commercial Zones, marked as Defendant Town Plan and Zoning Commission's Item No. 30 of the file.

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Mr. Beckwith: Item Number 31 is a United States Geodetic Survey Map of the area from Milford to Darien. This was on the wall at the executive session. It may or may not have been in the room at the public hearing; I am unable to determine that.

The Court: Supposing you resolve the doubt by saying that it was not at the public hearing, but it was available and in use by the Commission at the executive session.

Geodetic Survey and Map, marked as Defendant Town Plan and Zoning Commission's Item No. 31 of the file.

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Mr. Beckwith: If Your Honor please, the next item, which is 33, is a map of areas in existing and potential development study. This was available only at the executive session and it is explained in the executive minutes.

Map of Areas in Existing and Potential Development Study, marked as Defendant Town Plan and Zoning Commission's Item No. 33 of the file.

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Mr. Beckwith: No. 36 is a study of business land areas on Black Rock Turnpike. This was not avail-

able at the public hearing; it was available at the executive session.

Study of Business Land Areas on Black Rock Turnpike, marked as Defendant Town Plan and Zoning Commission's Item 36 of the file.

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Mr. Beckwith: Item Number 38 is a mounted Master Plan Map of dwelling unit distribution. This was prepared by Technical Planning Associates in 1948, in connection with the preparation of the master plan, which is Item 24 and 25. This was not at the public hearing and was at the executive session.

Mounted Master Plan Map, marked as Defendant Town Plan and Zoning Commission's Item No. 38 of the file.

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Mr. Beckwith: Item Number 40 is a book entitled, Shopping Centers, Design and Operation. This was at both the public hearing and the executive session.

Mr. Wolf: May I inquire as to where that was located at the public hearing?

Mr. Beckwith: It was on the judge's dias or counter in the front of the room.

Mr. Wolf: Is that the table at which the Commission was sitting? There was no reference to that book at the time.

The Court: So long as it was there.

Mr. Wolf: That is a pretty large room. This was not located or situated at the table at which the Com-

mission was sitting; this was put on another table or bench in the room beyond the Commission and no reference was made to it at the hearing whatsoever. Was this referred to at the executive session?

Mr. Levy: There was a specific reference made by our expert at the hearing.

The Court: So long as it was present where the public hearing was held—

Mr. Wolf: Even if there is no reference to it whatsoever?

The Court: It comes in.

Mr. Wolf: May we have an objection and exception on that ground also?

The Court: Objection overruled and exception noted.

(Exception noted for the plaintiffs.)

Book of "Shopping Centers, etc." marked as Defendant Town Plan and Zoning Commission's Item No. 40 of the file.

Mr. Beckwith: The next item is 41 which consists of three rough sketches of possible relocation of Black Rock Turnpike. These were not available at the public hearing, they were available at the executive session and they are actually overlays to the display map that is on the wall, they fit over it. May these three map be marked as one?

The Court: Yes, that is 41.

Three Rough Sketches, marked as Defendant Town Plan and Zoning Commission's Item No. 41 on the file.

Mr. Beckwith: The next item is Number 42, which is a sketch of development possible on the zone of 200 feet. This was prepared by the Planning Department and was not available at the Public Hearing, but it was before the Executive Session.

Sketch marked as Defendant Town Plan and Zoning Commission's Item No. 42 of the file.

Mr. Beckwith: Item 43 is a paper showing areas of existing zoning districts as of April 1, 1956. This was before the executive session, but was not before the public hearing.

Summary of Existing Zoning Districts, April 1, 1956, marked as Defendant Town Plan and Zoning Commission's Item No. 43 of the file.

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Mr. Wolf: May I make a few brief comments, Your Honor? Part. 1. Paragraph 1 of the complaint, the parties have stipulated that they are admitted. Now in connection with paragraph 4 I would ask that the Court take judicial notice of another case in this court, File Number 64573, George Katona et als vs. Town Plan and Zoning Commission of the Town of Fairfield et als. This case was decided on July 13, 1956 by Judge Leipner. There was a companion case, No. 64786, which may have some bearing on the matter. The first case has the complete record of the first decision in this same case and that becomes important in connection with paragraph 4 of the plaintiffs' complaint.

There are two other things that I would like to bring to the Court's attention. One is in connection with the evidence or the matters considered by the Commission in executive session, but not at the

public hearing, and we wish to state that this violated the constitutional rights of the plaintiffs. I am referring to Article 14, Section 1 of the United States Constitution and Article 1, Section 9 of the Connecticut Constitution; and I do think this should be heard at the first possible time.

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III THE FOLLOWING ARE RELEVANT STATUTES SET OUT FULLY AS CONTAINED IN THE 1955 SUPPLEMENT TO THE GENERAL STATUTES OF THE STATE OF CONNECTICUT.

Sec. 375d. Enforcement of regulations; public hearings; changes. Such zoning commission shall provide for the manner in which such regulations and the boundaries of zoning districts shall be respectively enforced and established and amended or changed. No such regulation or boundary shall become effective or be established until after a public hearing in relation thereto held by the zoning commission or a committee thereof appointed for that purpose consisting of at least five members at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper having a substantial circulation in such municipality at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than two days before such hearing, and a copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk, as the case may be, in such muni-

cipality for public inspection at least ten days before such hearing; and may be published in full in such paper. Such regulations and boundaries may, from time to time, be amended, changed or repealed by such zoning commission by a majority vote of the commission, except as otherwise provided herein. If a protest is filed at such hearing with the zoning commission against such change signed by the owners of twenty per cent or more of the area of the lots included in such proposed change, or of the lots within five hundred feet in any direction of the property included in the proposed change, such change shall not be adopted except by a vote of three-fourths of all the members of the zoning commission. The provisions of this section relative to public hearings and official notice shall apply to all changes or amendments. Zoning regulations or boundaries or changes therein shall become effective at such time as may be fixed by the zoning commission, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as the case may be, and notice of such filing shall have ben published in a newspaper having a substantial circulation in the municipality before such effective date. Whenever a zoning commission shall make any change in a zoning regulation or the boundaries of a zoning district it shall state upon its records the reason why such change is made. All petitions submitted in writing and in a form prescribed by the zoning commission, requesting a change in the boundaries of zoning districts, shall be considered at a public hearing, in the manner provided for establishment of zoning regulations and boundaries, within ninety days after receipt of such petition. The commission shall adopt or deny the bound-

ary changes requested in such petition within sixty days after the hearing. The petitioner may consent to extension of the periods provided for hearing and for adoption or denial or may withdraw such petition. The zoning commission may require a filing fee to be deposited with the commission to defray the cost of publication of the notice required for a hearing. No zoning commission shall be required to hear any petition or petitions relating to the same area or solely to portions of the same area and asking the same changes more than once in a period of twelve months.

Sec. 379d. Appeals from board to court. Any person or persons severally or jointly aggrieved by any decision of said board, or any officer, department, board or bureau of any municipality, charged with the enforcement of any order, requirement or decision of said board, may, within fifteen days from the date when such decision shall h ve been rendered, take an appeal to the court of c nmon pleas of the county in which such municipality shall be located, which appeal shall be made returnable to such court in the same manner as that prescribed for civil action brought to such court. Notice of such appeal shall be given by leaving a true and attested copy therof with, or at the usual place of abode of, the chairman or clerk of said board. The appeal shall state the reasons upon which it shall have been predicated and shall not stay proceedings upon the decision appealed from, but the court to which such appeal shall be returnable may, on application, on notice to the board and on cause shown, grant a restraining order. The authority issuing the citation in such appeal shall take from the appellant, unless

such appellant be an official of the municipality, a bond or recognizance to said board, with surety, to prosecute such appeal to effect and comply with the orders and decrees of the court. Said board shall be required to return either the original papers acted upon by it, and constituting the record of the case appealed from, or certified copies thereof. The court, upon such appeal, shall review the proceedings of said board and shall allow any party to such appeal to introduce evidence in addition to the contents of the record of the case returned by said board, if said record shall not contain a stenographic report or a complete mechanical recording of the entire proceedings before said board including all evidence presented to it, or, if, upon the hearing upon such appeal, it shall appear to the court that additional testimony is necessary for the equitable disposition of the appeal. The court may take such evidence or appoint a referee or committee to take such evidence as it may direct and report the same to the court, with his or its findings of facts and conclusions of law, which report shall constitute a part of the proceedings upon which the determination of the court shall be made. The court, upon such appeal, and after a hearing thereon, may reverse or affirm, wholly or partly, or may modify or revise the decision appealed from. Costs shall not be allowed against said board unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from. Appeals from decisions of said board shall be privileged cases to be heard by the court, unless cause shall be shown to the contrary, as soon after the return day as shall be practicable.

Sec. 381d. Appeals from zoning commissions. Appeals from zoning commissions may be taken to the court of common pleas in the manner provided in section 379d.

IV THE FOLLOWING IS THE DECISION RENDERED ON JULY 8, 1958 BY THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT.

SUPREME COURT OF ERRORS

May Term, 1958

Arthur A. Yurdin et al v. Town Plan and Zoning Commission of the Town of Fairfield et al.

William J. Busser v. Town Plan and Zoning Commission of the Town of Fairfield et al.

Appeals from two decisions of the defendant board changing the zone of certain properties, brought to the Court of Common Pleas in Fairfield County and tried to the court, Johnson, J.; judgments dismissing the appeals, from which the plaintiffs appealed to this court. No error.

Herbert L. Cohen and Austin K. Wolf, with whom were Martin F. Wolf and George A. Saden, for the appellants (plaintiffs) in the first case.

Martin F. Wolf, with whom were Herbert L. Cohen, Austin K. Wolf and George A. Saden, for the appellant (plaintiff) in the second case.

Raymond W. Beckwith, for the appellee (named defendant) in each case.

Samuel E. Friedman, with whom were Arthur Levy, Jr., and, on the brief, Irwin E. Friedman and Albert J. Kleban, for the appellee (defendant Turnpike Associates) in the first case.

Murphy, J. Pursuant to legal publication and duly warned public hearing, the town plan and zoning commission of the town of Fairfield, in executive session on September 26, 1956, unanimously voted to amend the zoning map and zoning districts of the town by changing the zone boundaries of certain areas in the immediate vicinity of the intersection of Black Rock Turnpike and Stillson Road. The plaintiffs are neighborhood property owners and residents. They opposed the changes before the commission and appeal from its decisions to the Court of Common Pleas. From the judgments dismissing the appeals and affirming the action of the commission, the plaintiffs have appealed to this court.

Black Rock Turnpike in this area is a segment of route 58, a main traffic artery extending northwesterly from Bridgeport to Danbury. Stillson Road extends southwesterly from Fairfield Woods Road across Black Rock Turnpike and connects with North Benson Road to provide a direct route from the Stratfield section of Fairfield to the center of town. The principal Merritt Parkway interchange for Fairfield is on the Black Rock Turnpike about a mile and three quarters north of Stillson Road.

We shall treat Black Rock Turnpike in this area as running north and south and Stillson Road east.

and west, in order to simplify the description of the area. These directions accord with the general understanding in the locality as expressed at the public hearing before the commission. Each of the four corners at the intersection is zoned for, and occupied by, business establishments. A bank is located on the southwest corner. The area immediately south of the bank for a distance of more than 1300 feet on Black Rock Turnpike is zoned neighborhood business 1 to a depth of 200 feet. The permitted uses in this zone are more limited and restricted than in a full business zone. The land to the south and west of this area is in a residence zone. Turnpike Associates, Inc., owns 315 feet of the neighborhood business frontage. It petitioned the commission to deepen, on its property, the neighborhood business zone to a depth of 400 feet. A similar petition had been denied the year before. The commission itself proposed extending the neighborhood business 1 zone southerly along Black Rock Turnpike a distance of 110 feet, to a point 80 feet north of Burroughs Road, and extending its depth to 400 feet at the southerly end and to a point on Stillson Road 370 feet west of Black Rock Turnpike and in the rear of the bank property. This proposal was adopted. The denial of the 1955 petition of Turnpike Associates did not preclude the commission from acting as it did. Winslow v. Zoning Board, 143 Conn. 381, 390, 122 A.2d 789.

Joseph T. and Margaret Dolan own the property on the northwest corner of the intersection. The corner lot, fronting 120 feet on Black Rock Turnpike, is zoned for business to a depth of 110 feet on Stillson Road. The area to its north on Black Rock Turnpike for upwards of 1000 feet is similarly zoned but

to a depth of 200 feet. The commission changed the zone of a lot on Stillson Road adjoining the corner lot from residence to business so that the business zone on the turnpike north of Stillson Road would have a uniform depth. In addition, it also changed from residence to neighborhood business 1 property of the Dolans and John H. Halfpenny on Stillson Road immediately west of the 200-foot-deep business zone. This property is 100 feet wide and over 300 feet deep. It provides space for off-street parking for the business area and is a transitional zone from the business zone to the residential property on the west.

The east side of Black Rock Turnpike south of a gasoline station on the southeast corner is zoned neighborhood business from Stillson Road to Burroughs Road, a distance of over 1500 feet. The northeast corner is occupied by an automobile service and gasoline station. The area to the north of it is also zoned for business for several hundred feet. From Fairfield Woods Road on the north to Burroughs Road on the south, both sides of Black Rock Turnpike are lined with business establishments ranging from appliances to upholstering and including most enterprises ordinarily to be found in a community shopping center.

The action of the commission did not constitute spot zoning, as claimed by the plaintiffs. It extended the existing business zone into a residence area by giving that area the same or a more limited business classification. This was in accord with the comprehensive plan and for the general welfare of the community. Levinsky v. Zoning Commission, 144 Conn.

117, 124, 127 A.2d 822; Hills v. Zoning Commission, 139 Conn. 603, 609, 96 A.2d 212.

In argument before this court, great stress was laid by the plaintiffs on the action of the commission in conferring, in executive session following the public hearing, with two of its employees, the planning director and the planning technician, and in considering reports of studies they had previously made for the commission. These reports were part of the commission records. One had been made and submitted to the commission in 1952. Report No. 11, an outline for a business land use plan, was dated February 2, 1955. It was marked as a plaintiffs' exhibit at the commission's public hearing, and its contents were used in presenting the plaintiffs' opposition to the proposed changes. The other report, on the growth of Fairfield, was submitted to the commission on January 17, 1956. The appendix to the plaintiffs' briefs indicates that these reports were discussed by the commission before it acted on the proposed changes. The record does not indicate that either the director or the technician spoke in favor of or opposition to any of the changes, nor does it show any attempt upon their part to influence the commission in its decision. The commission did not exceed its authority or violate any rights of the plaintiffs when it had the reports and population maps explained by the trained personnel who prepared them for the commission. It must be borne in mind that the commission is composed of laymen. That they are entitled to professional, technical assistance in doing the statistical work required to enable them to carry out the responsibilities of their

office is necessarily implied in the legislation creating the commission and outlining its duties.

The only other claim of the plaintiffs which requires attention pertains to a ruling on evidence in the Yurdin case. The plaintiffs offered the testimony of a real estate expert long familiar with the area to show that conditions in the area had not changed since the denial of the 1955 petition of Turnpike Associates. This evidence was submitted because there was no stenographic report or complete mechanical recording of the entire proceedings before the commission. Cum. Sup. 1955, §§ 379d, 381d; Nov. 1955 Sup., § N11; see Village Builders, Inc. v. Town Plan & Zoning Commission, 145 Conn. 218, 220, 140 A.2d 477. The court sustained the objection to this line of testimony. As the action of the commission was taken upon its own proposal for extending the neighborhood business zone and not upon the 1956 application of Turnpike Associates, the exclusion of this evidence was harmless. Furthermore, the rule that zone changes should not ordinarily be made after prior denial of them unless there have been substantial changes in the area does not necessarily apply to a commission when it is acting in a legislative capacity. Winslow v. Zoning Board, 143 Conn. 381, 390, 122 A.2d 789; Suffield Heights Corporation v. Town Planning Commission, 144 Conn. 425, 430, 133 A.2d 612.

The reasons given by the commission for each of its three changes were fully supported by the evidence before it, and the changes are in harmony with both the comprehensive plan and the town plan relating to the development of a community shopping